

In re) Fair Hearing No. 15,579
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Appeal of)

The petitioner appeals the decision by the Department of Social Welfare denying her application for General Assistance (GA) benefits for permanent housing.¹ The issue is whether under the pertinent regulations GA is available for rent deposits and security payments of rent in advance.

FINDINGS OF FACT

2. Except for a two month period this summer, when the petitioner couldn't work because of surgery (and during which time she received ANFC benefits for herself and three of her children), the petitioner has been employed, and three of her children have either worked part time or received Social Security benefits. The daughter with the

¹The petitioner also appealed the Department's decision not to include a housing allowance in her ANFC grant. A decision on that issue is pending.

baby receives SSI and an ANFC grant for her child. When the petitioner is working, the household income is about \$2,500 a month, which is well above the ANFC payment standards for combined households of four and two persons.

3. At the end of July, 1998, the petitioner applied for GA for temporary housing and was denied based on excess income. An "expedited hearing" was held by phone² at which time the hearing officer, satisfied that the petitioner was without cash on hand, that one of her children was ill, and that suitable alternative arrangements were not available, ordered the Department to provide temporary housing (in a motel) until either the petitioner received income or another suitable housing alternative (e.g., a homeless shelter) could be found.

4. Shortly thereafter, the petitioner located a house for rent. The rent was \$600 a month, but the landlord was demanding the first and last month rent in advance, as well as a one month security deposit. From its experiences with other clients who had lived in that particular house the Department believed that the utility bills for the house were inordinately high.

5. The petitioner applied for GA for the \$1,800 necessary for her to be able to move into this house. The Department denied the application, and another expedited

²See Procedures Manual § P-2610D.

hearing was held by phone, at which time the hearing officer affirmed the Department's decision based on a provision in the GA regulations (see infra) allowing payment of only the current month rent and the fact that the petitioner had suitable temporary housing available to her.

6. This was followed by an in-person hearing held on August 11, 1998, at which time the house in question was no longer available. At that hearing, however, the hearing officer advised the Department that the petitioner should be found eligible for GA for ongoing temporary housing if she was without cash on hand and if no suitable alternatives were available. The petitioner essentially maintains that if she can locate permanent housing, she should be eligible for GA for her costs of obtaining it, not just for the current month's rent.

7. The petitioner received benefits under the Department's Emergency Assistance (EA) program in February, 1998, when she first became homeless.

ORDER

The Department's decision is affirmed.

REASONS

The GA regulations, at W.A.M. § 2600C, provide that applicants with minor children are eligible for GA only if their income in the last 30 days is "below the applicable

ANFC payment level for that size household in similar living arrangements" unless the applicant has exhausted all available income and resources and is facing a "catastrophic situation" as defined by W.A.M. § 2602--i.e., is facing a court-ordered or constructive eviction "beyond the control" of the applicant.

As noted above, the petitioner's income has been either at or above the ANFC payment standard throughout the period in question. It also appears that she has the means to continue to obtain temporary housing, either through GA or by the receipt by household members of benefits from other programs or through their employment.

The regulations governing GA for "permanent housing", at W.A.M. § 2613.1, include the following provisions:

. . .

Payment may be authorized for the current mortgage or rental period only and shall not be authorized or issued prior to the due date for that period.

. . .

Deposits or security payments shall not be authorized. . . .

A provision in the regulations under "temporary housing", at W.A.M. § 2613.2 is even more emphatic:

Deposits or security payments of any type shall not be authorized.

(All emphasis in the originals.)

In light of the above regulations it is clear that the Board has no basis to order the Department to grant GA to

cover future rent periods and deposits. The Department in its discretion can (and, in the hearing officer's experience, sometimes does) make exceptions to this regulation to avoid situations in which an indefinite (and more expensive) period of temporary housing can be avoided by allowing a family the means to move into suitable permanent housing. The Department has represented that it may consider such an exception for the petitioner in the future, but that it did not feel one was justified at this time and for that particular housing arrangement. Based on the facts of this case as presented in late July, it cannot be concluded that the Department abused any discretion it may have had in this regard.

The Department's Emergency Assistance (EA) program is more liberal in terms of covering deposits and security payments. See, e.g., W.A.M. § 2813. However, assistance under that program is limited to "one period of 30 consecutive days in any 12-consecutive-month period". As noted above, the petitioner received such assistance in February, 1998, and, therefore, is not eligible again until February, 1999.

Inasmuch as the Department's decision in this matter is in accord with the pertinent regulations the Board is bound by law to affirm it. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 17.

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